

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Bernard Daskal
Serial No. : 09/489,655
Filed : January 24, 2000
For : COLORED PANTY LINERS
Examiner : Catharine L. Anderson
Group Art Unit : 6092

RULE 1.132 DECLARATION OF RABBI SHMUEL NEIMAN

I, Rabbi Shmuel Neiman, declare as follows:

1. I am an Ordained Rabbi and make this declaration on behalf of Mr. Bernard Daskal in connection with the above identified Patent Application.
2. I have been a Rabbi for twelve (12) years and am extremely knowledgeable in the laws of *Taharas Hamishpachah*, which comprises a significant part of my Rabbinical duties. *Taharas Hamishpachah*, the laws of "family purity" in the Jewish religion, is comprised of a complex set of Scriptural commandments, Rabbinic decrees, and customs. In almost every Jewish community, there is at least one rabbi devoted to ruling on the myriad of issues that arise in observance of *Taharas Hamishpachah*. I am one of the Rabbis who makes such rulings for my community.
3. As relevant here, *Taharas Hamishpachah*, among other things, involves the physical separation between husband and wife whenever the wife experiences

uterine bleeding (typically attributable to menstruation) and the seven days immediately thereafter. During this period, the wife has the status of a "Niddah", and as such, the wife is forbidden from having sexual relations with her husband. This period of separation culminates in the wife's immersion in a ritual bath known as the "mikveh", after which sexual relations may resume.

4. By Rabbinic Decree, a woman has the status of a *Niddah* if she experiences any vaginal staining, subject to certain exceptions. In this regard, a woman who experiences such staining will be a *Niddah unless*:
 - a. the stain is smaller than the size of a *gris* (a Talmudic-era measurement approximately the size of a penny);
 - b. the stain is discovered on a surface that is incapable of becoming *Tumay* (a prohibitive Scriptural status -- clothing, for example, is capable of becoming *Tumay* whereas the ground is not);
 - c. the stain is blue, green or yellow; or
 - d. the stain is found on a "colored" surface.
5. In practice, there are many circumstances in which a woman may experience staining during her non-menstrual cycle. In such cases, an issue arises as to whether the stain renders the woman a *Niddah*. When a question arises as to whether a stain falls under one of the exceptions enumerated in Paragraph 4 above, the couple does not make personal judgments with respect to the stain. Rather, a competent Rabbi is required to rule on whether the stain falls under one of the exclusions to the Rabbinic Decree discussed above. If the stain, although

non-menstrual, does not fall under one of the exceptions, then the Rabbi is compelled to rule that the woman has the status of a *Niddah*.

6. Mr. Daskal has asked me to explain what is meant by a "colored" surface as relevant to the colored-surface exception to the Rabbinic Decree discussed above. A significant number of Rabbis would rule that only dark colors, such as black, brown and red would fall under the colored-surface exception, as used in the context of the Rabbinic Decree concerning *Niddah*. Likewise, the same Rabbi would rule that other colors, such as blue, green, blue-green, pink, peach and other pastel and light colors, are non-colored surfaces as used in the context of the Rabbinic Decree discussed above.
7. Whether a colored-surface masks or does not mask a stain is irrelevant to the determination of whether a stain falls under one of the enumerated exceptions to the Rabbinic Decree discussed above. Rather, the reason that "colored" surfaces are excluded from these rules stems from an association with the Scriptural laws on "leprosy" found on clothing and other objects. Thus, for example, many Rabbis would recognize that a large brown stain on a blue-green surface capable of becoming *Tumay* would render the woman a *Niddah*. However, the same Rabbis would recognize that the same stain, on a black, red or brown surface, on the other hand, would fall under the colored-surface exception to Rabbinic Decree, and thus the woman would not be rendered a *Niddah*.
8. Recently, Mr. Daskal showed me his patent application, as identified above. I understood the application as disclosing a feminine hygiene pad with a top sheet

having a dark color, including black, brown and red, which are to be used by Jewish woman in connection with the Rabbinic Decree concerning *Niddah*. Such an invention addresses a problem that many Jewish couples in my community and elsewhere have faced.

9. Specifically, there are numerous instances in which non-menstrual stains could technically render a woman a *Niddah*. Since the Rabbinic Decree is concerned with discouraging sexual relations during a woman's menstrual period, but encouraging sexual relations directed at procreation during the inter-menstrual period, there has been a long felt need in the Jewish community for feminine hygiene pad product which would preclude the situation where non-menstrual stains may raise the question as to whether a woman is a *Niddah*. Throughout my years as a Rabbi, I have spoken with couples about ways to avoid these problems. For example, I have suggested to couples that the woman avoid wearing light colored garments, like skirts, underwear, or even bedding linen, during the inter-menstrual period. However, in my twelve (12) years as a Rabbi, I had neither seen any such product on the market nor thought of recommending the use of dark feminine hygiene pads prior to Mr. Daskal's application. Further, I have never been asked to inspect a black, brown or red feminine hygiene pad. Nevertheless, I have continued to work with couples to seek to solve this problem.

10. The black, brown and red feminine hygiene pad disclosed in Mr. Daskal's patent application solve this long felt need. As such, I would recommend to the women in my community that during their inter-menstrual period they use the feminine hygiene pads with dark colored top sheets, including in particular black, brown or red, disclosed in

Daskal's patent application to avoid even the possibility that a non-menstrual stain would render the woman a *Niddah*.

I declare that the foregoing is true and correct to the best of my knowledge.

Dated: January 14, 2002

By: Shmuel Neiman
Rabbi SHMUEL NEIMAN
14/1/02

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RULE 1.132 DECLARATION OF SHERRY DASKAL

I, SHERRY DASKAL, declare as follows:

1. I am a female practitioner of *Taharat Hamishpachah* and make this declaration on behalf of Mr. Bernard Daskal in connection with the above identified Patent Application. I am also married to Mr. Bernard Daskal, the named inventor on the subject Patent Application.
2. I recently gave birth to my second child. During both of my pregnancies, I experienced light colored non-menstrual vaginal discharges, including, for example, leukorrhea (i.e., a whitish vaginal discharge).
3. During my first pregnancy, to protect my undergarments from being stained by these non-menstrual discharges, I frequently wore a white feminine hygiene pad with a white topsheet. As a result, my husband and I had to seek the advice of our local Rabbi to determine if I would be rendered a *Niddah* by such stains.

4. After my husband conceived of the idea for a black top sheet in a feminine hygiene pad and filed the present Patent Application, we learned that McNeil-PPC Inc. sold a product which embodies my husband's invention. To protect my undergarments from being stained by these non-menstrual discharges, I frequently wore McNeil-PPC's feminine hygiene pad having a black topsheet. Since the leukorrhea fell on a black surface, this stain clearly fell under the "colored" surface exception to the Rabbinic Decree concerning *Niddah*. Accordingly, it was not necessary for my husband and I to consult a Rabbi as to whether this stain rendered me a *Niddah*.
5. On several occasions, I noticed that the leukorrhea and other light stains were not masked by the black feminine hygiene pad. Rather, these light colored stains were very noticeable on the black topsheet of the feminine hygiene pad.

I swear that the foregoing is true and correct.

Sherry Daskal
Sherry Daskal